



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 12 and 90

[DA 11-1838]

Redundancy of Communications Systems: Backup Power Private Land Mobile Radio Services: Selection and Assignment of Frequencies, and Transition of the Upper 200 Channels in the 800 MHz Band to EA Licensing

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Federal Communications Commission's (Commission) Public Safety and Homeland Security Bureau (Bureau) and Office of Managing Director (OMD) make nonsubstantive, editorial revisions to the Commission's rules. The Bureau and OMD make these revisions to delete certain rule provisions that are without current legal effect and obsolete. These nonsubstantive revisions are part of the Commission's ongoing examination and improvement of its processes and procedures. The revisions and the specific reasons for each one are set forth below.

DATES: Effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Eric Ehrenreich, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at (202) 418-1726, or by email at Eric.Ehrenreich@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau and OMD's Order, DA 11-1838, adopted and released on November 1, 2011. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and

Printing, Inc., 445 12th Street, SW., Room, CY-B402, Washington, DC 20554. The full text may also be downloaded at: www.fcc.gov.

1. This Order deletes a rule setting forth backup power requirements for communications providers. This rule never took effect and ultimately was vacated in its entirety by the U.S. Court of Appeals for the District of Columbia (D.C. Circuit). The rule, 47 CFR 12.2, is therefore without current legal effect and is deleted as obsolete.

2. This Order also deletes a rule providing that UHF television translators on Channels 70 to 83 must operate on a secondary basis to land mobile operations in the 800 MHz band and will not be protected from such operations. There are no UHF television translators operating on Channels 70 to 83, and the Commission has eliminated the TV allocation from these channels. Accordingly, this rule provision, 47 CFR 90.621(d), is without current legal effect and is deleted as obsolete.

3. This Order also deletes a provision that allocates specified channels for Basic Exchange Telecommunication Radio Service (BETRS) but expressly cautions that a pending FCC proposal could remove this allocation from these channels. The Commission removed the allocation in 2005. Accordingly, this provision, 47 CFR 90.621(h), is without current legal effect and is deleted as obsolete.

4. This Order also deletes rule provisions that provided a framework for the relocation of incumbent site-based licensees in the upper 200 channels of the 800 MHz Band by incoming geographically-based (EA) licensees. These provisions were a component of the 1995 reconfiguration of the 800 MHz band from site-based to geographic-based service that has since been completed. Accordingly, these provisions, 47 CFR 90.699(a)-(c), (e)-(f), are without current legal effect and are deleted as obsolete.

I. PROCEDURAL MATTERS

A. Accessible Formats

5. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

B. Paperwork Reduction Act Analysis

6. The rules contained herein have been analyzed with respect to the Paperwork Reduction Act of 1995 and found to contain no new or modified form, information collection, and/or recordkeeping, labeling, disclosure, or record retention requirements, and will not increase or decrease burden hours imposed on the public. In addition, therefore, this Order does not contain any new or modified “information collection burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198.

C. Congressional Review Act

7. The Commission will send a copy of this Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act (“CRA”), see 5 U.S.C. 801(a)(1)(A).

D. Effective Date of Rule

8. The rule amendments adopted in this Order and set forth in the attached Appendix are ministerial, nonsubstantive, editorial revisions of the rules under 47 CFR 0.231(b) and 0.392(e). The revisions adopted in this Order merely delete obsolete rule provisions and the Bureau and OMD find good cause to conclude that notice and comment procedures are unnecessary and would not serve any useful purpose. *See* 5 U.S.C. 553(b)(3)(B). Because the

rules being deleted are obsolete and without current legal effect, the Bureau and OMD also find good cause to make these nonsubstantive, editorial revisions of the rules effective upon publication in the Federal Register. See 5 U.S.C. 553(d)(3).

II. FINAL REGULATORY FLEXIBILITY ANALYSIS

9. Because this Order is being adopted without notice and comment, the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., does not apply.

III. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED THAT**, effective upon publication in the Federal Register, Parts 12 and 90 of the Commission's rules **ARE AMENDED**, as set forth, pursuant to the authority contained in sections 4(i), 5(c) and 303(r) of the Communications Act, 47 U.S.C. 154(i), 155(c) and 303(r), and §§ 0.231(b) and 0.392(e) of the Commission's regulations, 47 CFR 0.231(b) and 0.392(e).

11. IT IS FURTHER ORDERED that the Secretary shall cause a copy of this Order to be published in the Federal Register.

List of Subjects in 47 CFR Parts 12 and 90

Communications, Communications common carriers, Communications equipment,
Radio, Telecommunications, Telephone, Television.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Beers
Division Chief.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Parts 12 and 90 to read as follows:

PART 12 — REDUNDANCY OF COMMUNICATIONS SYSTEMS

1. The authority citation for Part 12 continues to read as follows:

Authority: Sections 1, 4(i), 4(j), 4(o), 5(c), 218, 219, 301, 303(g), 303(j), 303(r), 332, 403, 621(b)(3), and 621(d) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 154(o), 155(c), 218, 219, 301, 303(g), 303(j), 303(r), 332, 403, 621(b)(3), and 621(d), unless otherwise noted.

§ 12.2 [Removed]

2. Remove §12.2.

PART 90 — PRIVATE LAND MOBILE RADIO SERVICES

3. The authority citation for Part 90 continues to read as follows:

AUTHORITY: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7).

§ 90.621 [Amended]

4. In § 90.621, remove and reserve paragraphs (d) and (h).

§ 90.699 [Amended]

5. In § 90.699, remove and reserve paragraphs (a) through (c), (e) and (f).